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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/688,535	10/20/2003	Kevin J. Powell	1689 . 0310001	2130
26111	7590	05/17/2006	EXAMINER	
STERNE, KESSLER, GOLDSTEIN & FOX PLLC 1100 NEW YORK AVENUE, N.W. WASHINGTON, DC 20005				TRAIL, ALLYSON NEEL
		ART UNIT		PAPER NUMBER
		2876		

DATE MAILED: 05/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/688,535	POWELL ET AL.	

Examiner	Art Unit	
Allyson N. Trail	2876	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 2/28/2006.
 2a) This action is **FINAL**. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-23 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1-23 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on 20 October 2003 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
 Paper No(s)/Mail Date _____.
 4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date. _____.
 5) Notice of Informal Patent Application (PTO-152)
 6) Other: _____.

DETAILED ACTION

Amendment

1. Receipt is acknowledged of the Amendment filed February 28, 2006.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-23 are rejected under 35 U.S.C. 102(e) as being anticipated by Patterson et al (2004/0036575).

Figure 3 of Patterson et al illustrates the following in regards to claims 1, 12-14, 16, and 23:

The tag receives a symbol from a reader when an operating state of the tag is a first state. This first state is indicated at step 12, where the tag must be on in order to transmit a response. If the received symbol has a first logical value, the operating state of the tag is transitioned to a second state. The second state is indicated at step 18, where the tag is turned off. If the received symbol has a second logical value, the following occurs: If the confirmed read flag indicates the tag has been previously read (an indication of the tag being previously read occurs when the tag is off), the tag stays

dormant until all other tags have been read. If the tag is still on (which indicates that the tag has not been read), the tag is transitioned to the second “off” state.

“The method is illustrated in FIG. 2. The RFID reader initially transmits a pulsed RFID interrogation signal at 10. If the RFID reader receives an RFID tag response at 12, the RFID reader begins to transmit both the pulsed RFID interrogation signal and a continuous RFID interrogation signal at 14. The tag data is read at 16 and the tag is turned-off at 18 so that it will not continue to respond to the interrogation signal. If another tag response is received at 20, the RFID reader continues to transmit the pulsed and continuous signals until all of the tag data is read from all of the tags at 16 and 18, respectively. When no further tag responses are received at 20, the RFID reader again begins to transmit only the pulsed interrogation signal at 10, and the method continues.” (Paragraph 0021).

Patterson et al teaches the following in regards to claims 2, 8, 14, and 17-19: “The tags that have been turned-off will eventually time-out and automatically turn-on.” (Paragraph 0021). Once all tags are turned back on, the process begins again and the tags will transition to the second state of being off. Once off, the tag enters a calibration state.

Patterson et al teaches the following in regards to claims 3, 10, and 15:

As shown in figure 3, a forth logical value transitions the tag to a third state of being turned on (22). During this third state, the tag expects a command from reader in the form of a data symbol. This equates to a tree start state.

Patterson et al teaches the following in regards to claims 4, 7, and 11:

“An RFID marker or tag receives the transmitted RF interrogation signal and responds with a reply signal that includes identification information and other data as known in the art.” (Paragraph 0006). When the tag is in the fourth state, being back on, it is shown in figure 3 that the RFID tag responds to the reader. As disclosed in paragraph 0006, tag information is transmitted to the reader. Additionally see Patterson et al’s teachings above in reference to claim 1. Particularly, it is taught above that when the tag is off (confirmed read flag) the tag is transitioned to dormant state until all tags indicate that they have been read.

In regards to claim 7, the logical value is a NULL symbol. This symbol indicated by voiding the “off” state of the tag and returning the tag to an “on” state.

In regards to claim 11, in the fourth’s state (returning to the on state), the tag will transmit its identification number to reader. This step equates to the tree traversal state.

Patterson et al teaches the following in regards to claims 5 and 6:

It is clear that if the first logic turns the tag off, the value must be a “0”. In the same respect, if the logic value is not turning the tag off, the value must be a “1”.

Patterson et al teaches the following in regards to claim 20:

“Typically, each tag contains a small capacitor to hold power on for a period of time.” (Paragraph 18).

Patterson et al teaches the following in regards to claim 21:

“The reader then uses the tag ID to address that particular tag, causing the tag to transmit its stored data. The stored data can be any variety of information, and is normally associated with the article to which the tag is attached.” (Paragraph 0019).

Patterson et al teaches the following in regards to claims 9, 14, and 22 (additionally refer to Patterson et al's teachings in regards to claim 1 above):

"Alternately as illustrated in FIG. 3, the RFID reader can send a signal to turn on all tags at 22. And, as illustrated in FIG. 4, the RFID reader can send a signal to a specific tag or a specific group of tags to turn-on only that tag or tags. For example, when an RFID reader, which also writes data, has changed tag data on a selected tag or tags, the new tag data can be verified without having to rereading all of the tags in a given area." (Paragraph 0021).

Response to Arguments

4. Applicant's arguments filed November 22, 2005 have been fully considered but they are not persuasive. Applicants disagree with statement that the tag being turned off is an indication that the tag had been previously read. Although it is agreed upon by the Examiner that tags can be "off" without previously being read for a variety of reasons, Patterson clearly illustrates in figure 3 a flow chart showing step 18 "turning the tag off", which immediately follows step 16 "reading tag data". Reading the flow chart it is obvious to conclude that after the tag has been read (step 16) the tag is turned off (step 18). Applicants further argue with respect to claim 1, that Patterson does not teach or suggest the limitation "that a tag stores an indication that the tag has been previously read". This argument however is not relevant to claim 1, as the above limitation is not disclosed in claim 1. Applicants cite a paragraph taken from Patterson, which only discloses "one example" and argue that a tag in Patterson that is turned-on has no mechanism to determine whether it has been previously read. However, again

pointing to the flow chart in figure 3, it is clear that the tags are turned on in step 22 only after step 16, where the tags are read and turned off at step 18. With respect to claim 16, Applicants argue that Patterson does not teach or suggest an RFID tag comprising a means for storing a confirmed read flag that indicates whether the tag has been recently read and means for responding to an interrogation by a reader including means for evaluating the value of the confirmed read flag upon receipt of a first logical symbol from a reader when an operating state is a first state. Once again, looking at figure 3, it is clear that the tag includes a means for storing a confirmed read flag that indicates that the tag has been read. The tag is turned off (step 18) only after the tag has been read. In order to perform that operation the tag must store data, which indicates that the tag has been read.

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: Black et al (6,265,962).
7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to *Allyson N. Trail* whose telephone number is (571) 272-2406. The examiner can normally be reached between the hours of 7:30AM to 4:00PM Monday thru Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee, can be reached on (571) 272-2398. The fax phone number for this Group is (571) 273-8300.

Communications via Internet e-mail regarding this application, other than those under 35 U.S.C. 132 or which otherwise require a signature, may be used by the applicant and should be addressed to [\[allyson.trail@uspto.gov\]](mailto:[allyson.trail@uspto.gov]).

All Internet e-mail communications will be made of record in the application file. PTO employees do not engage in Internet communications where there exists a possibility that sensitive information could be identified or exchanged unless the record includes a properly signed express waiver of the confidentiality requirements of 35 U.S.C. 122. This is more clearly set forth in the Interim Internet Usage Policy published in the Official Gazette of the Patent and Trademark on February 25, 1997 at 1195 OG 89.

DANIEL STCYR
PRIMARY EXAMINER

Allyson N. Trail
Patent Examiner
Art Unit 2876
May 14, 2006

